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18
19 **UNITED STATES DISTRICT COURT**
20
21 **NORTHERN DISTRICT OF CALIFORNIA**

22 SER LAO, as an individual and on behalf
23 of all others similarly situated,

24 Plaintiffs,

25 vs.

26 H & M HENNES & MAURITZ, L.P., a
27 New York limited partnership; and DOES
28 1 through 50, inclusive,

1 Defendants.

Case No. 5:16-cv-333 EJD

2
3 **DECLARATION OF KWANPORN "MAI"
4 TULYATHAN IN SUPPORT OF
5 PLAINTIFF'S MOTION FOR
6 PRELIMINARY APPROVAL OF CLASS
7 ACTION SETTLEMENT**

8 Date: April 30, 2020
9 Time: 9:00 a.m.
10 Courtroom: 4, 5th Floor
11 Judge: Hon. Edward J. Davila

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1 **DECLARATION OF MAI TULYATHAN**

2 I, Mai Tulyathan, declare as follows:

3 1. I am an attorney at law, duly licensed to practice before all Courts in the State of
4 California, and am with the law firm Diversity Law Group, counsel of record for Named Plaintiff
5 Ser Lao (“Plaintiff”).

6 2. I have personal knowledge of the facts set forth below and if called to testify I
7 could and would do so competently.

8 3. I am one of the primary attorneys on this matter. My qualifications are as
9 follows: I received my JD from Loyola Law School in 2017. I received the First Honors Award
10 in Legal Research and Writing, First Honors Award in Appellate Advocacy, and First Honors
11 Award in Civil Litigation Practicum I for achieving the highest grade in those classes. During
12 law school, I was a Staff Editor for Loyola Law Review. I was also an extern at the U.S. District
13 Court, Central District of California, for the Honorable Christina A. Snyder, and a certified law
14 clerk at the San Diego County District Attorney’s Office, Collaborative Courts Division, and the
15 Los Angeles County District Attorney’s Office, Consumer Protection and Environmental Crimes
16 Division. In 2016, I participated in Loyola Law School’s Scott Moot Court Competition, where I
17 placed Top 16 and was awarded the Top Ten Brief Award. In 2017, I participated in the
18 Employment Rights Clinic, an extension of the Division of Labor Standards Enforcement created
19 to investigate retaliation complaints. Upon graduation from law school, I was admitted to the
20 California Bar in December 2017.

21 4. I am currently an associate at the law firm Diversity Law Group, P.C., an
22 employment law firm that has handled numerous wage and hour class and individual actions, on
23 both plaintiff and defense sides. The firm currently has cases in the Santa Clara Superior Court,
24 Los Angeles Superior Court, the Orange County Superior Court, the San Diego County Superior
25 Court, the Monterey County Superior Court and the United States District Courts for the Central,
26 Northern, and Eastern Districts of California. I am currently handling numerous wage and hour
27 class action and PAGA lawsuits, including *Magadia v. Wal-Mart Associates, Inc., et al.* (Case
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1 Number 5:17-cv-00062-LHK); *Garcia v. Wal-Mart Associates, Inc., et al.* (Case Number 3:18-
 2 cv-00500-L-MDD); *Hernandez v. Wells Fargo Bank, N.A.* (Case Number 16CV299319); *Lao v.*
 3 *H & M Hennes & Mauritz, L.P.* (Case Number 5:16-cv-333 EJD); *Arroyo v. Int'l Paper*
 4 *Company* (Case Number 5:17-cv-06211-BLF); *Baker v. California Forensic Medical Group,*
 5 *Inc., et al.*, Judicial Council Coordination Proceeding No. 4999 (Lead Case No. 17CV003723);
 6 *Markham v. Quik Stop Markets, Inc.* (Case Number 19CV341582); *Westmoreland v. KinderCare*
 7 *Education LLC* (Case Number CGC-19-573125); *Arrington v. Automatic Data Process*
 8 *Insurance Agency, Inc.* (Case Number 30-2019-01099994-CU-OE-CXC); *Garcia v. Apex*
 9 *Systems, LLC, et al.* (Case Number RG19014709).

10 5. In 2018, I argued before the California Court of Appeal, Second Appellate
 11 District, in the case of *Lee v. California Commerce Club, Inc.* (California Court of Appeal Case
 12 Number B276171, LASC Case Number BC596924), and *Perez v. Standard Drywall, Inc.*
 13 (California Court of Appeal Case Number A146819, Alameda Sup. Ct. No. RG15761142). In
 14 that same year, I also assisted the firm in successfully obtaining class certification and partial
 15 summary judgment by the United States District Court, Central District of California in the case
 16 of *Magadia v. Wal-Mart Associates, Inc.* (Case Number 17-CV-00062-LHK). I third chaired the
 17 bench trial in that same case in December 2018, and obtained a \$102 million judgment for the
 18 class against Walmart.

19 6. I have also been approved as class counsel in numerous other wage/hour class
 20 actions. Most recently, I was approved as class counsel in the cases *Garcia v. Wal-Mart*
Associates, Inc., et al. (Case Number 3:18-cv-00500-L-MDD), *Richert v. Samaritan, LLC, et al.*
 21 (Case Number 17CV314186), *Song v. THC – Orange County, Inc.* (Case No. 8-17-cv-965-JLS
 22 (DFM)), and *Hernandez v. Wells Fargo Bank National Ass'n, et al* (Case No. 16-CV-299319).
 23 Moreover, I was granted final approval as class counsel in *Valles v. Community Hospital of the*
Monterey Peninsula (Case No. 17CV003452), *Chavez v. Hugo Boss Retail, Inc.* (Case No.
 24 18CV322644), and *Hernandez v. Wells Fargo Bank National Ass'n, et al* (Case No. 16-CV-
 25 299319).

7. Each side has apprised the other of their respective factual contentions, legal theories and defenses, resulting in extensive arms' length negotiations taking place among the Parties, including one full day of mediation and a settlement conference before the Honorable Nathanael M. Cousins. Based on their own independent investigation and evaluation, the Parties and their respective counsel are of the opinion that the Settlement for the consideration and on the terms set forth in the Class Action Settlement Agreement are fair, reasonable, and adequate and the settlement is in the best interests of the Settlement Class and Defendant in light of all known circumstances and the expenses and risks inherent in litigation.

8. Plaintiff's counsel conducted extensive investigation and discovery, including formal written discovery; contacting and interviewing then-putative class members; taking and defending numerous depositions, including that of Plaintiff, Defendant's FRCP 30(b)(6) Corporate Representatives, over 40 class members, and Plaintiff's expert; subpoenaing and reviewing relevant records from third parties; exchanging class time and payroll data and documents; and conducting expert discovery.

9. Plaintiff also believes in the fairness of the settlement that is based on factoring in the uncertainty and risks to Plaintiff involved in not prevailing on his certified class claims at trial and the possibility of appeals.

10. Plaintiff and Plaintiff's counsel are adequate representatives in that they have no conflicts with the class and will adequately represent the class.

11. Plaintiff's counsel does not have any relationship with Legal Aid at Work or with the Ali Forney Center.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 6th day of March, 2020, at Los Angeles, California.

/s/ Mai Tulyathan
Mai Tulyathan